



DEPARTMENT OF AGRICULTURE

Rural Utilities Service

Rural Housing Service

Rural Business-Cooperative Service

7 CFR Part 5001

[Docket No. RUS-19-Agency-0030]

OneRD Guaranteed Loan Initiative

AGENCY: Rural Business-Cooperative Service, Rural Housing Service, Rural Utilities Service, Department of Agriculture (USDA).

ACTION: Final rule; applicability.

SUMMARY: On December 10, 2021, Rural Development's Rural Business-Cooperative Service, Rural Housing Service, and Rural Utilities Service, agencies of the United States Department of Agriculture (USDA), published a final rule with comment for the OneRD Guarantee Loan Program (OneRD). The final rule was effective on December 10, 2021, and applied to all applications filed by an applicant pursuant to OneRD on or after that date. This document announces which provisions could be applied to applications pending review, conditional commitments, and loans made under OneRD since October 1, 2020.

DATES: This document applies to the final rule issued and effective December 10, 2021.

ADDRESSES: For consideration of the applicable provisions, contact the USDA Rural Development State Office in which the project is located. A listing of each State Office can be found at <https://www.rd.usda.gov/about-rd/state-offices>. Information regarding the OneRD Guarantee Initiative may be found at <https://www.rd.usda.gov/onerdguarantee>.

FOR FURTHER INFORMATION CONTACT: Lauren Cusick, Regulations Management Division, Rural Development Innovation Center, U.S. Department of Agriculture, 1400 Independence Ave., SW, Stop 0793 Washington, DC 20250; telephone (202) 720-1414; e-mail

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SUPPLEMENTARY INFORMATION: Rural Development's Rural Business-Cooperative Service, Rural Housing Service, and Rural Utilities Service (RUS) issued a final rule that published December 10, 2021, at 86 FR 70349. The final rule revised the policy and procedures to strengthen oversight and management of the growing Community Facilities (CF), Water and Waste Disposal (WWD), Business and Industry (B&I), and Rural Energy for America (REAP) loan guarantee portfolios. The action was part of a continuing effort by the Agency to improve customer service for its lenders and create a more efficient work process for its staff. The Agency has determined that certain provisions that were effective in the rule issued on December 10, 2021, may be applied to applications pending review, conditional commitments, and loans made under 7 CFR part 5001 since October 1, 2020.

Rural Development staff will contact lenders that do not have a current System for Award Management (SAM) registration. Until there is an active SAM registration no conditional commitment or obligation may be executed. The following table provides the amendments made in the final rule published December 10, 2020, which apply to: 1) All new and pending applications filed pursuant to 7 CFR part 5001; 2) Applications where a Conditional Commitment has been issued pursuant to 7 CFR part 5001 but for which no guarantee has been issued; and 3) To lenders with guarantees issued pursuant to 7 CFR part 5001:

Section of regulation	Amendment
5001.130 - Lender eligibility requirements.	Paragraph (a) was amended to include new requirements for lenders to be registered in and maintain an account in the System for Award Management (SAM) to conform with 2 CFR part 25.

Lenders may request consideration for certain revised provisions by notifying the Agency. The following table provides the amendments made in the final rule published

December 10, 2021, which may be applied to: 1) All new and pending applications filed pursuant to 7 CFR part 5001; 2) Applications where a Conditional Commitment has been issued pursuant to 7 CFR part 5001, but for which no guarantee has been issued; and 3) To lenders with guarantees issued pursuant to 7 CFR part 5001:

Section of regulation	Amendment
5001.408 Participation or assignment of guaranteed loan.	Paragraph (b) was amended to remove the requirement of the lender to maintain a minimum servicing fee of 50 basis points from any holder and will allow the lenders to determine their own interest rate spreads when selling to a holder or participating to another lender.
5001.513 Interest rate changes.	Paragraph (e) was amended to allow variable rate changes to be changed to fixed rates whether the fixed rate is higher or lower at the request of the borrower, agreement of the holder, if any, and Agency concurrence.

For pending OneRD applications filed pursuant to 7 CFR part 5001 prior to December 11, 2021, applicants may opt-in to provisions by completing the Opt-In form located in the forms section of the OneRD Guarantee website (rd.usda.gov/onerdguarantee). A revised or updated application will need to be submitted by lenders choosing to opt-in to the following provisions:

Section of regulation	Amendment
5001.3 Definitions.	The definition of affiliate was updated to further clarify what constitutes an affiliate.
	The definition of energy efficiency improvement was updated to conform with 7 CFR part 4280.

	The definition of existing business was updated to further define what it means for an existing business to be in operation.
	The definition of new business was updated to further define what it means for a new business to be in operation.
	The definition of power purchase agreement was updated to conform with 7 CFR part 4280.
5001.104 Eligible WWD projects and requirements.	Paragraph (c) was revised to clarify when a utility project that is serving both rural and non-rural areas is eligible for a loan guarantee.
5001.105 Eligible B&I projects and requirements.	The introductory text was revised to clarify that the list of eligible projects is not exclusive of the only projects that will be considered as eligible B&I projects.
	Paragraph (b)(1) was updated to clarify that a B&I guaranteed loan may be used for the purchase and development of land, buildings, or infrastructure for public or private commercial enterprises.
	Paragraph (b)(8) was revised to clarify exclusion of owner-occupied housing in the B&I guarantee program.
	Paragraphs (b)(9) and (10) were combined and edited to clarify when B&I funds may be utilized to fund a CF project.
	A new paragraph (b)(10) was added to clarify when B&I funds may be used for the development and construction of broadband and telecommunication systems, including

	modification of existing systems, that are not otherwise eligible for funding in the RUS program or if funding is unavailable in the eligible RUS program, subject to the Public Notice Filing requirements of 7 CFR 1738.106(a) and the additional reporting requirements of 7 CFR 1738.107.
	Paragraphs (d)(1)(i) and (ii) and (d)(2)(i) and (ii) were revised to clarify the length of time the minimum balance sheet equity must be maintained.
5001.115 Ineligible projects-general.	Paragraph (n) was amended to clarify when owner occupied housing is considered eligible and removed paragraph (s) the ineligibility of self-storage facilities.
5001.121 Eligible uses of loan funds.	The introductory text was updated to allow a recipient of a loan guarantee to use up to 10 percent of project funds to construct, improve, or acquire broadband infrastructure related to the project financed, to conform with the requirements of 7 CFR part 1980, subpart M.
5001.126 Borrower eligibility.	Paragraph (e) was amended to add a new paragraph (e)(3), End users, to conform with 7 CFR part 4280. This revision brings consistency to REAP on the analysis of the eligibility of the applicant controlling interest of an end-user.
5001.205 General project monitoring requirements.	Paragraph (e)(2)(ii) was amended to provide Lenders the opportunity to provide project monitoring under specific criteria.

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